

Notice of Allowability

Application No.

10/765,295

Examiner

Marie R. Yamnitzky

Applicant(s)

KNOWLES ET AL.

Art Unit

1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment received March 16, 2007.
2. ☒ The allowed claim(s) is/are 3-5,9-21,24-26,30-34,37-39,43-56,59-61 and 65-70.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Art Unit: 1774

The amendment filed March 16, 2007, which cancels claims 1, 2, 6-8, 22, 23, 27-29, 35, 36, 40-42, 57, 58 and 62-64, and amends claims 3-5, 9, 12-14, 16-19, 21, 24-26, 30-34, 37-39, 43, 46-48, 50-53, 55, 59-61 and 65-70, has been entered.

Claims 3-5, 9-21, 24-26, 30-34, 37-39, 43-56, 59-61 and 65-70 are allowed, and renumbered as 1-50 respectively.

The rejections under 35 U.S.C. 112, first and second paragraphs, as set forth in the Office action mailed October 13, 2006, are partly rendered moot by claim cancellation and otherwise overcome by claim amendment.

The rejection under 35 U.S.C. 103(a) based on Kamatani et al. (US 2003/0059646 A1) is overcome by claim amendment for claims 56 and 70, and otherwise rendered moot by claim cancellation.

The rejection under 35 U.S.C. 103(a) based on Brown et al. (US 2004/0086743 A1) is partly rendered moot by claim cancellation, and otherwise overcome in view of the joint research agreement provisions of 35 U.S.C. 103(c) as amended by the CREATE Act, applicant's statements received January 22, 2007 and March 16, 2007 regarding the joint research agreement, and the amendment to the specification received June 19, 2006 which sets forth the names of the parties to the joint research agreement.

Art Unit: 1774

Any inquiry concerning this communication should be directed to Marie R. Yamnitzky at telephone number (571) 272-1531. The examiner works a flexible schedule but can generally be reached at this number from 7:00 a.m. to 3:30 p.m. Monday-Friday.

The current fax number for all official faxes is (571) 273-8300. (Unofficial faxes to be sent directly to examiner Yamnitzky can be sent to (571) 273-1531.)

MRY
March 27, 2007



MARIE YAMNITZKY
PRIMARY EXAMINER

1774